

**SEDGWICK COUNTY  
BOARD OF ZONING APPEALS  
MINUTES  
MAY 4, 2004**

The Sedgwick County Board of Zoning Appeals meeting was held at 3:30 p.m. on Tuesday, May 4, 2004, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following members were in attendance: JANA MULLEN, KATHLEEN GIDEON, TOM LINDSAY, GRANT TIDEMANN, DENNIS GRUENBACHER

The following Planning Department staff members were in attendance: Secretary, SCOTT KNEBEL, and Recording Secretary, ROSE SIMMERING.

KNEBEL Calls meeting to order. First order of business would be elect Co-BZA officers.

**MULLEN moves, GRUENBACHER seconds, to elect Grant Tidemann, Chair, and Jana L. Mullen, Vice-Chair, and Scott Knebel as Secretary.**

**MOTION CARRIES 5-0.**

TIDEMANN Agenda Item #2 approval of meeting minutes for the following meeting: June 3, 2003.

**GRUENBACHER moves, MULLEN seconds, to approve minutes for June 3, 2003.**

**MOTION CARRIES 4-0-1. (Lindsay abstains)**

TIDEMANN Agenda Item 3, BZA2004-25, Variance to reduce the side setback on the south from 10 feet to 5 feet for an attached garage addition on property zoned "SF-20" Single-family Residential, generally located south of 71<sup>st</sup> Street South and east of I-35 (7247 S. Pattie).

KNEBEL, Planning staff: Presents the following report:

CASE NUMBER: BZA2004-00025

OWNER/APPLICANT: Michael and Megan Roets

AGENT: n/a

REQUEST: Variance to reduce the side setback on the south from 10 feet to 5 feet for an attached garage addition

CURRENT ZONING: "SF-20" Single-Family Residential

LOCATION: South of 71<sup>st</sup> Street South and east of I-35 (7247 S. Pattie)

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section V-G. of the Unified Zoning Code. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicants are proposing to construct a 24-foot by 30-foot attached garage to the south side of the single family residence located at 7247 S. Pattie. The subject property is zoned "SF-20" Single-Family Residential, which requires a 10-foot setback along the south property line. The applicant submitted the attached site plan that illustrates the proposed garage. Since the single family residence is set back only 29 feet from the south property line, the proposed garage cannot be constructed in the proposed location without approval of a variance to reduce the required setback to five feet.

Setback reductions of up to 20% can be approved by an administrative adjustment, and planning staff encouraged the applicant to pursue constructing a 21-foot wide garage, which could be allowed without a variance. However, since the applicants' child is blind, the garage needs to be constructed wide enough to allow for steps to be constructed within the garage and to provide for two vehicle bays. Also, the garage needs to be constructed on the south side of the house since the septic lateral field is located north of the house. The applicant submitted the attached written statement outlining how the request meets the criteria for granting a variance.

**ADJACENT ZONING AND LAND USE:**

NORTH	"SF-20"	Single-family
SOUTH	"SF-20"	Single-family
EAST	"SF-20"	Single-family
WEST	"SF-20"	Single-family

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the property is located in an area where the existing structures were constructed when no zoning regulations covered the area; therefore, numerous structures in the area do not conform to the currently-required building setbacks (see attached aerial photograph). In fact, the adjoining property along the south property line has an attached garage that is set back only five feet from the applicants' property, which is the same setback for the same purpose that is requested by the applicant.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the no encroachment into the building setback would occur that is in excess of the placement of existing structures on adjoining properties.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the Zoning Code constitutes an unnecessary hardship upon the applicant, inasmuch as the 10-foot side setback is a requirement of zoning regulations that were established after the property was originally developed and requiring conformance with current regulations would significantly limit the ability to improve the property given the special needs of the applicants' blind child.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the building setback, and therefore, there will be no adverse effect on the general public.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the reduced setback will continue to provide for fire protection, building separation, light and air circulation, and pedestrian access.

**RECOMMENDATION:** Should the Board determine that the conditions necessary to grant the variance exists, then it is the recommendation of the Secretary that a variance to reduce the side building setback on the south from 10 feet to 5 feet be GRANTED, subject to the following conditions:

1. Development of the subject property shall comply with all building and zoning code requirements, except that the side building setback on the south shall be reduced from 10 feet to 5 feet.

2. The setback reduction shall apply only to the “ Proposed Garage” as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The addition shall match the character of the existing residence in terms of materials and colors and roof pitch.
4. The subject property shall be developed in general conformance with the approved site plan.
5. All permits necessary to construct the indicated improvements shall be obtained prior to initiating construction, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
6. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

TIDEMANN Have there been any comments from the neighborhood?

KNEBEL I have not been notified by anyone.

GRUENBACHER Is there a precedent being set here?

KNEBEL I think the precedent was set a long time ago. I would be surprised if this area was not annexed by Haysville eventually and would be subject to their zoning regulations. The project would meet Haysville requirements and would not need a variance.

MIKE ROETS, Applicant, I had a lot of neighbors pull up and read the sign. Some of the neighbors had concern about annexation, and they are against annexation into Haysville. My immediate neighbors know what I want to do, and I didn't get any negative feedback from them. One thing about the way my house was built that it seems to be slightly elevated in the driveway area and that might adversely affect drainage into my neighbor if I were to try and raise the level of the driveway so that the garage floor would meet the level of the main part of the house so that we could enter directly without any steps. The way it is designed now I would build the garage basically from the ground up, which would mean a pretty substantial step from the garage floor to get up to the house. I have a raggedy porch right now, and for safety and security of my family as well as securing my vehicles, I would need to fit two cars in there and build a step to get safely in the house.

**GRUENBACHER moves, MULLEN seconds to approve subject to staff comments and conditions.**

**MOTION carries 5-0. The Board adopts the following resolution:**

**BZA RESOLUTION NO. 2004-00025**

**WHEREAS**, Michael and Megan Roets, pursuant to Section V-G Wichita-Sedgwick County Unified Zoning Code request a variance to reduce the side setback on the south from 10 feet to 5 feet for an attached garage addition on property zoned “SF-20” Single-Family Residential and legally described as follows:

Lot 37, Block 2, E A McMullen Addition, Sedgwick County, Kansas. Generally located south of 71<sup>st</sup> Street South and east of I-35 (7247 S. Pattie).

**WHEREAS**, proper notice as required by ordinance and by the rules of the Sedgwick County Board of

Zoning Appeals has been given; and

**WHEREAS**, the Sedgwick County Board of Zoning Appeals did, at the meeting of May 4, 2004, consider said application; and

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section V-G, Wichita-Sedgwick County Unified Zoning Code;

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant. It is the opinion of the Board that this property is unique, inasmuch as the property is located in an area where the existing structures were constructed when no zoning regulations covered the area; therefore, numerous structures in the area do not conform to the currently-required building setbacks. In fact, the adjoining property along the south property line has an attached garage that is set back only five feet from the applicants' property, which is the same setback for the same purpose that is requested by the applicant.

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of the Board that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch the no encroachment into the building setback would occur that is in excess of the placement of existing structures on adjoining properties.

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the zoning regulation may constitute an unnecessary hardship upon the applicant, inasmuch as the 10-foot side setback is a requirement of zoning regulations that were established after the property was originally developed and requiring conformance with current regulations would significantly limit the ability to improve the property given the special needs of the applicants' blind child.

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has found that the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the building setback, and therefore, there will be no adverse effect on the general public.

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of the Board that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulation, inasmuch as the reduced setback will continue to provide for fire protection, building separation, light and air circulation, and pedestrian access.

**WHEREAS**, each of the five conditions required by Section V-G Wichita-Sedgwick County Unified Zoning Code to be present before a variance can be granted has been found to exist.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals of Sedgwick County that a variance be granted reduce the side setback on the south from 10 feet to 5 feet for an attached garage addition on property zoned “SF-20” Single-Family Residential and legally described as follows:

Lot 37, Block 2, E A McMullen Addition, Sedgwick County, Kansas. Generally located south of 71<sup>st</sup> Street South and east of I-35 (7247 S. Pattie).

The variance is granted subject to the following conditions:

1. Development of the subject property shall comply with all building and zoning code requirements, except that the side building setback on the south shall be reduced from 10 feet to 5 feet.
2. The setback reduction shall apply only to the “Proposed Garage” as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The addition shall match the character of the existing residence in terms of materials and colors and roof pitch.
4. The subject property shall be developed in general conformance with the approved site plan.
5. All permits necessary to construct the indicated improvements shall be obtained prior to initiating construction, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
6. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 4th day of May, 2004.

**Meeting adjourned at 3:42 p.m.**